

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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FRANK NELLOM, FRANK NELLOM	:	
& CO.,	:	
Plaintiffs,	:	CIVIL ACTION NO. 12-4627
	:	
v.	:	
	:	
DARBY BOROUGH, et al.	:	
Defendants.	:	
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ORDER

AND NOW, this 13th day of December 2012, upon review of Plaintiff's Motion for Preliminary Injunction [Doc. No. 10] and Defendants' response thereto [Doc. No. 12], Defendants' Motion to Dismiss [Doc. No. 11], to which there was no response, and Plaintiff's Motion for Summary Judgment [Doc. No. 14], Defendants' response [Doc. No. 16], and Plaintiff's brief in support [Doc. No. 17], and for the reasons set forth in the accompanying Memorandum Opinion, it is hereby **ORDERED** that:

1. Defendants' Motion to Dismiss is **GRANTED**. This action is dismissed, in its entirety, *with prejudice*, for failure to state a claim on which relief can be granted.
2. Plaintiff's Motion for Preliminary Injunction is **DENIED**.
3. Because the Complaint is dismissed with prejudice for failure to state a claim, Plaintiff's Motion for Summary Judgment is **DISMISSED AS MOOT**.

The Clerk of Court is **DIRECTED** to mark this case **CLOSED**.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.